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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,620	11/25/2003	Stephen Doncov	5362-000451/COB	7701

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EXAMINER

PEDDER, DENNIS H

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 03/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/721,620

Applicant(s)

DONCOV ET AL.

Examiner

Dennis H. Pedder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 February 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-29 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-21 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 19-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19 continues to be incorrect as the tracks for window and roof panel are separate.

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 6-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no support found for the specific angle of “within 45 degrees of vertical”. Applicant’s comments in this regard are vague. Should applicant desire to claim this feature and believes that support is present, specific paragraph and line number should be provided. Figures are not specific in this regard.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-2, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over MGA in view of BMW and Neubrand.

MGA has side rails 4/21, first panel 4, back window 6, storage compartment at 8, and lacks a second panel.

It would have been obvious to one of ordinary skill to provide in MGA multiple roof panels as taught by BMW in order to allow more selective opening of the roof. It would

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have been further obvious to one of ordinary skill to provide in the above references a covering panel for a storage compartment as taught by Neubrand in order to ease access to the compartment for the sliding panels, which can thus by more diverse in configuration. The cover of Neubrand has a separate motor, hence is independent of the roof panels.

Claims 2 and 4 are common knowledge in the art, obvious to support and move in a known manner. As applicant has not challenged these statements of judicial notice, they are made final.

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over MGA in view of Renneker.

It would have been obvious to one of ordinary skill to position the panel/window drive below a beltline as taught by Renneker in order to isolate noise. The actuator of Renneker is below the beltline with the roof and back window closed as seen in figure 2.

5. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over MGA in view of Renneker as applied to claim 14 above and further in view of Chika.

It would have been obvious to one of ordinary skill to provide in the references above a continuous loop drive as taught by Chika as a known device in this art.

6. Claims 18-19, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chika in view of Varner.

The drive system is mounted to the vehicle below the beltline at 124 of Chika. It would have been obvious to one of ordinary skill to provide in Chika a second window drive

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mounted to a stationary portion of the vehicle as taught by Varner schematically at 60 in order to reduce effort of window opening.

As to claim 19, see tracks 176, etc.

As to claim 21, see cable 130 of Chika.

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chika in view of Varner as applied to claim 19 above, and further in view of BMW.

It would have been obvious to one of ordinary skill to provide in the references above two roof panels and corresponding slide elements, taught by Chika, as taught by BMW in order to reduce the weight of each roof panel and to open the roof more fully.

Further as to claim 20, see four bar linkage of Varner, a known mechanism in this art.

8. Claims 3 rejected under 35 U.S.C. 103(a) as being unpatentable over MGA in view of BMW, and Neubrand as applied to claim 1 above, and further in view of Varner.

It would have been obvious to one of ordinary skill to provide in the references above a four bar linkage and cable/motor drive as taught by Varner in order to move the rear window in a known manner.

9. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over MGA in view of Renneker as applied to claim 14 above, and further in view of Neubrand.

See above comments regarding Neubrand.

10. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over MGA in view of Renneker as applied to claim 14 above, and further in view of BMW and Varner.

It would have been obvious to one of ordinary skill to provide in the references above a second roof panel as taught by BMW and a four bar linkage for a back window as taught by Varner in order to selectively vent the interior and move a window in a known manner.

***Allowable Subject Matter***

11. Claims 22-29 are allowed.
12. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

13. Applicant's arguments filed 2/7/2005 have been fully considered but they are not persuasive. Please see the detailed rejection above.

***Conclusion***

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

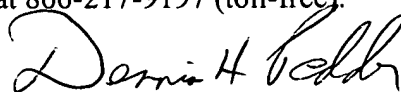
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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (703) 308-2178. The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dennis H. Pedder  
Primary Examiner  
Art Unit 3612

2/26/05

DHP  
2/26/2005